

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LARRY GAITHER,

Plaintiff,

VS.

MEDICAL OFFICER TINA CHAPA,

Defendant.

Case No. 1:04-cv-1167-KOB-TMP

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on August 27, 2008, recommending that the defendant's special report be treated as a motion for summary judgment and, as such, that it be granted and this cause be dismissed with prejudice. The plaintiff filed objections to the report and recommendation on September 12, 2008.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections filed by the plaintiff, the court is of the opinion that the magistrate judge's report is due to be and hereby is ADOPTED and his recommendation is ACCEPTED. The court EXPRESSLY FINDS that there are no genuine issues of material fact and that the defendant is entitled to judgment as a matter of law. Accordingly, defendant's motion for summary judgment is due to be granted and this action is due to be dismissed with prejudice. A Final Judgment will be entered.

DONE and ORDERED this 7th day of October 2008.

Karon O. Bowdre

KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE